

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2000-416-C - ORDER NO. 2001-247
MARCH 26, 2001

IN RE: Application of Evolution Networks South,)	ORDER
Inc. for a Certificate of Public Convenience)	GRANTING
and Necessity to Provide Intrastate)	CERTIFICATE FOR
Telecommunications Services as a Carrier's)	LONG DISTANCE
Carrier within the State of South Carolina.)	AUTHORITY AS A
)	CARRIER'S CARRIER

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Evolution Networks South, Inc. ("Evolution" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide intrastate telecommunications services as a carriers' carrier within the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1999) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Evolution to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Evolution's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this instruction and

provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on March 7, 2001, at 11:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable William Saunders, Chairman, presided. Evolution was represented by Bonnie D. Shealy, Esquire. Adelaide D. Kline, Staff Counsel, represented the Commission Staff. Barbara J. Crawford, Auditor, and James M. McDaniel, Chief, Telecommunications area, testified on behalf of the Commission Staff.

Mr. Donald C. Hilbert, Jr., Controller of Evolution Networks South, Inc., appeared and testified in support of the Application. Mr. Hilbert testified that he previously had been with BellSouth Telecommunications before he went with Evolution in January 2000.

Upon receiving certification from the Commission, Evolution plans to provide high-speed, high capacity transport for integrated voice, video, data and Internet services as a facilities-based, wholesale network provider. The record reveals that Evolution is a wholly-owned subsidiary of Evolution Networks, Inc. The parent company and Evolution have their headquarters office in Atlanta, Georgia. Evolution Networks, Inc. is building its network throughout the northeast, south, mid-Atlantic, and midwest regions of the United States. Evolution intends to offer services as a "carriers' carrier," providing telecommunications transport options to competitive local exchange carriers ("CLECs"), incumbent local exchange carriers ("ILECs"), Internet service providers ("ISPs"), digital subscriber line ("DSL") service providers, and other telecommunications carrier

customers. The company will not provide service directly to residential or business end users and will not provide dial-tone service. Rather, Evolution will provide telecommunications capacity to carriers and ISPs on a wholesale basis. The record reveals that Evolution is a Delaware corporation. The record further reveals that the Company, along with its sister companies Evolution Networks Midwest, Inc., Evolution Networks North, Inc., and Evolution Networks West, Inc., is building a nationwide telecommunications network to improve connectivity of smaller markets. Evolution will act as a bandwidth wholesaler that integrates high capacity transport services with data applications and facilities. The Company's customers will be telecommunications service providers and ISPs that buy or lease fiber capacity and those who rely on the Company for website hosting and applications services.

As of the hearing date, Evolution, a newly formed entity, had received certification to provide its telecommunications services in twenty-four states, and has applications pending in approximately seven states. Mr. Hilbert said the Company is not currently operating in any of the states in which it is certificated but does plan to have its funding completed in order to begin offering services in the third quarter of 2001. He said the Company intends to build its own fiber network, targeting second and third tier markets, connecting Wilmington, North Carolina, to Savannah, Georgia, coming through South Carolina, and hitting the coastal town of Myrtle Beach and other coastal towns in South Carolina.

The record reveals that Evolution's network will be constructed of new fiber and high-capacity radio links. Fiber will be used as the core of the transportation network,

while radio-based systems will act as collector networks for smaller towns in the regional networks. The switched network will be based on Internet Protocol (IP) platforms with Asynchronous Transfer mode (ATM) back bones and Quality of Service (QOS) management capabilities. The network will support managed high quality IP Voice and IP Virtual Private Networks. Dial-up modem, voice, and fax could be supported with new Voice over VP (VoIP) gateway technology at each of Evolution's Points of Presence.

Evolution data centers will be established in selected regional cities and will also serve as central operations and maintenance centers for the transport network. These operations centers will provide operational monitoring and control capabilities to ensure support for customers twenty-four hours per day, seven days per week. Mr. Hilbert testified that Charleston and Greenville have been identified as the two locations in South Carolina where Evolution plans to deploy data centers.

Regarding the Company's technical ability to offer telecommunications services in South Carolina, Mr. Hilbert testified that the Company will issue invoices to its customers on a monthly basis that will include the name of the Company and the Company's toll-free telephone number. The record reveals the invoice will include an account summary what will recount activity on the previous bill, including the amount of payment received, late payment charge as allowed by the Commission's regulations and balance forward, as well as current charges for services. This invoice will also clearly identify federal, state, county, and city taxes included in the total amount of the customer's bill. Mr. Hilbert said the bills will be generated in-house and customers can utilize online access to bills before receiving a hard copy of the bill.

The Company's toll-free telephone number is available for questions or disputes about a customer's bill. Customers may reach the Company toll-free at 1-800-429-0058. The record reveals that Evolution will maintain customer service twenty-four hours a day, seven days a week. Mr. Hilbert further stated that each customer will have a designated customer service representative assigned to handle its account. He also said that the President/Chief Executive Officer of the Company will be automatically notified if a major problem, such as the loss of service that persists for more than six hours, is reported to a customer service representative. David E. Palmer, Vice President Sales, will be the customer service contact person for Evolution. Jeff Brown, Vice President and General Counsel, will be the regulatory contact.

As to Evolution's managerial abilities to offer the services it proposes to offer in South Carolina, Mr. Hilbert testified that the Company's key management team has extensive experience in the telecommunications industry. He said his background includes senior management positions with BellSouth Telecommunications in the South and Central American markets. Mr. Hilbert is a Certified Public Accountant (CPA) and his educational background includes a degree from George Washington University in 1984. Mr. Hilbert testified that Eric F. Ensor is the President and Chief Executive Officer of Evolution. Mr. Ensor has over twenty years experience in the telecommunications industry. Mr. Ensor's background includes the creation and build out of a major wireless personal communications services network. Prior to Mr. Ensor's experience at Telecom Wireless Solutions, he was with BellSouth Personal Communications, Inc., where he held a series of key management roles. Mr. Ensor holds bachelor's and master's degrees from

Duke University. Jeff Brown is the Company's Vice President for Regulatory Affairs and General Counsel. Jose Marques is Vice President Business Development. Mr. Marques has held various positions with BellSouth International and Sprint Corporation. He holds a bachelor's degree in Computer Science from the New Jersey Institute of Technology. Daniel J. Clark is Vice President Deployment. Mr. Clark's experience and background includes projects with Fluor Daniel Telecom, BellSouth China in Beijing, and Optus Communications in Australia. He began his career at Southern Bell where he served BellSouth in Puerto Rico. Michael C. Geiselhart is Vice President Corporate Development. Mr. Geiselhart is a CPA and his background includes over seventeen years experience in corporate development, financial and regulatory analysis. He came to Evolution Networks from MediaOne Group, Inc., in Denver.

Mr. Hilbert testified that Evolution will rely on its parent company for financial resources. Mr. Hilbert said that Evolution Networks, Inc., the parent corporation, has sufficient financial capability to maintain the services to be offered. He said Evolution is an early stage company currently backed by four reputable venture capital firms: Centennial Ventures of Denver; First Union Capital partners of Charlotte; Harbourvest of Boston; and LightSpeed Ventures of Menlo Park, California. He said the Company secured \$30 M in funding to plan and design the desired network from the above-mentioned capital venture groups; the next round will be to deploy the network.

Ms. Crawford testified as to her findings of the Audit Department's review of Evolution Network Inc.'s audited and unaudited financial statements that were submitted as part of the Company's Application. She stated she reviewed financial statements

included in the Application that were dated as of December 31, 1999, May 31, 2000, and June 30, 2000. According to Ms. Crawford, the Company's May 31, 2000, income statement and the June 30, 2000, balance sheet indicated a financially strong parent company that is extremely liquid. Ms. Crawford also testified that the Company has the financial backing of its parent organization, and she determines the Company to be financially strong and in a position to fund Evolution's operations in South Carolina.

Mr. McDaniel presented testimony to the Commission on the Utilities Department's findings with respect to Evolution's Application for a Certificate of Public Convenience and Necessity. McDaniel's testimony includes several recommended changes to the Company's tariff. Mr. Hilbert also filed rebuttal testimony in which he agreed to make revisions or changes to Evolution's tariff as suggested by Commission Staff witness James M. McDaniel. The Company also agreed to add its email address to each tariff page and to submit a copy of its Bill Form (invoice) with its final tariff.

According to Mr. Hilbert, Evolution has never had authority denied in any state where it has applied for authority nor has the Company had authority revoked in any state where it has been granted authority. Additionally, he said that Evolution has never been the subject of an investigation, fined or sanctioned by a state or federal regulatory body.

According to the Application and Mr. Hilbert's testimony, Evolution requests waivers of 26 S.C. Code Ann. Regs. 103-610 (1976) so that Evolution can maintain its records outside of South Carolina. The Company wishes to maintain its books and records at its headquarters in Atlanta, Georgia; it will keep South Carolina specific records. Mr. Hilbert stated that the Company is aware and agrees to abide by the

Commission's regulation that requires that these records be made available for examination by the Commission at reasonable hours. Evolution also requested that it be allowed to keep its books and financial records according to the Generally Accepted Accounting Principles (GAAP) rather than according to the Uniform System of Accounts (USOA).

According to the testimony, Evolution has not marketed its services in South Carolina prior to receiving certification. Additionally, the Company has not provided local or long distance services in South Carolina or received revenues from the completion of intrastate calls in South Carolina prior to receiving certification. Finally, Mr. Hilbert testified Evolution will abide by all the Commission's rules, regulations and Orders upon the Company receiving certification to operate as a carriers' carrier of intrastate interexchange telecommunications services in South Carolina.

After full consideration of the applicable law, the Company's application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Evolution is organized as a corporation under the laws of the State of Delaware and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.
2. Evolution is a facilities-based wholesale provider and wishes to provide intrastate telecommunications carriers' carrier services in South Carolina.

3. Evolution has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Evolution to provide intrastate facilities-based wholesale network services as a carriers' carrier. We define a carriers' carrier as providing non-switched point-to-point service for authorized telecommunications carriers to and from Points of Presence (POPs).

2. The Commission adopts the Company's proposal to offer its whole network services on an individual contract basis and such contracts shall be filed with the Commission as required by 26 S. C. Code Regs. 103- 603 (1976).

3. If it has not already done so by the date of issuance of this Order, Evolution shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

4. Evolution shall sell only to those carriers authorized to do business in South Carolina by this Commission.

5. Evolution shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports can be found at the Commission's website at www.psc.state.sc.us/forms. The title of this form is "Annual Information on South Carolina Operations For Interexchange Companies and AOS". Be advised that the

Commission's annual report for telecommunication companies requires the filing of intrastate revenues and intrastate expenses.

6. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Evolution shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the Commission's website at www.psc.state.sc.us/forms; this form shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

7. By its Application and testimony at the hearing, Evolution requested a waiver from the Commission's requirement to maintain its books within the State of South Carolina according to 26 S.C. Code Ann. Regs. 103-610 (1976). The Commission grants the Company's request to waive the record keeping regulation so that its books and records may be kept at its principal office and headquarters in Georgia. The Commission also grants Evolution the opportunity to keep its books and records in accordance with GAAP rather than the USOA.

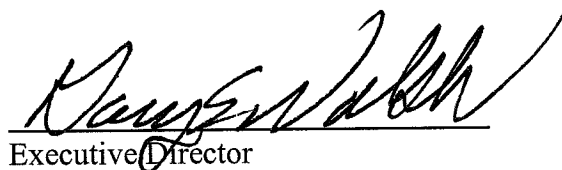
8. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

9. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)